

PATENT APPLICATION
Docket No. 2705-167
Client Seq. 4176 – CPOL 114048

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: James Allen Clark et al. Confirmation No.: 4571
Serial No. 09/864,360 Examiner: Annan Q. Shang
Filed: May 23, 2001 Group Art Unit: 2623
For: CONTENT DISCOVERY AND DIFFERENTIAL ADVERTISING IN VIDEO
DISTRIBUTION NETWORKS
Date: July 14, 2008

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF - UNDER 37 C.F.R. § 41.41

This Reply Brief is responsive to the Examiner's Answer that was mailed on 14 May 2008.

Claims 1-5, 7-11, 14, 15, 18-31 and 40 are rejected under 35 USC 102(e) as being anticipated by U.S. Pat. No. 6,298,482 to Seidman et al. ("Seidman").

The Examiner identified services such as "academic, entertainment, Internet, VOD, etc." as services that are available at a set-top-box (STB) and that selection history records (SHR) are transmitted to a head end.¹ However, the SHR are records indicating the user's selections used to gather statistics on viewing selections.² That is, the SHR do not indicate

¹ Examiner's Answer, May 14, 2008, pp. 8-9.

² Seidman, col. 7, ll. 2-18, in particular, ll. 14-18.

whether “academic, entertainment, Internet, VOD, etc.” are available at the STB.

Moreover, the Examiner is mischaracterizing Seidman. The Examiner argues that “The head end processor presents a menu of available services to the STB, tracks availability of services at each STB and customizes various content or services to users of the STB.”³ However, no menu is presented by a head end in Seidman. Menus are presented by the STB.⁴

In addition, in claim 1, the use patterns and services available information are transmitted in the same use pattern packets. Using the Examiner’s interpretation, the services available information must then be transmitted in the SHR. However, there is no indication that the SHR contains services available information, only selection history information. Even assuming for the sake of argument that a head end knows what services are available at an STB, there is still no indication that information regarding the availability is transmitted back to the head end in the SHR.

Claims 6, 12 and 16 are rejected under 35 USC 103(a) as being unpatentable over Seidman as applied to claims 1, 10 and 15, and in view of U.S. Pat. No. 6,779,004 to Zintel (“Zintel”).

The Examiner is mischaracterizing Zintel. The Examiner argues that Zintel teaches a discovery protocol that uniquely identifies use pattern packets from among other packets.⁵ However, the cited section of Zintel only recites a packet containing “the identifier of the desired service.”⁶ That is, the identifier of Zintel identifies a desired service. It does not distinguish the packet as a use pattern packet over other packets.

Claims 32-39 are rejected under 35 USC 103(a) as being unpatentable over Seidman as applied to claims 1 and 9, and in view of U.S. Pat. No. 6,088,826 to Teich (“Teich”).

The Examiner is mischaracterizing Teich. The Examiner indicates that Teich teaches “tracking reception of packets, determining if [a] packet should be received by a point in time, [verifying] delivery of a particular [frame or packet] and tracking a QoS of services provided

³ Examiner’s Answer, p. 9.

⁴ See Seidman, col. 6, line 31, and 66, for example.

⁵ Examiner’s Answer, pp. 6 and 9.

⁶ Zintel, col. 46, ll. 40-46.

to the NTU.”⁷ At best, Teich merely teaches error correction.⁸ Merely correcting errors in packets or frames does not teach any time relationship of packets as in claims 34 and 38, does not teach any content relationship as in claims 35 and 39, and does not teach tracking of reception or quality of service as in claims 32, 33, 36, and 37. Moreover, even if error correction is interpreted as a quality of service, there is no indication that the error correction status is tracked, thus there is no tracking of quality of service in Teich.

CONCLUSION

For the foregoing reasons, Applicant requests that the Board reverse the Examiner’s rejections.

Customer No. 20575

Respectfully submitted,

MARGER JOHNSON & McCOLLOM, P.C.



Derek Meeker
Reg. No. 53,313

MARGER JOHNSON & McCOLLOM, P.C.
210 SW Morrison Street, Suite 400
Portland, OR 97204
503-222-3613

⁷ Examiner’s Answer, p. 10.

⁸ Teich, Abstract.